

# HOUSE . . . . . No. 1556

By Mr. Quinn of Dartmouth, petition of John F. Quinn for legislation to protect consumers in the issuance of automobile insurance policies and bonds. Financial Services.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

### AN ACT TO PROTECT CONSUMERS IN THE ISSUANCE OF AUTOMOBILE INSURANCE POLICIES AND BONDS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 113A of chapter 175 of the General Laws,  
2 as appearing in the 2000 Official Edition, is hereby amended by  
3 striking out lines 1 through 14 and inserting in place thereof the  
4 following:—

5 Notwithstanding the provisions of section 2B 193F through  
6 193H of this chapter, or any other contrary provision of law, no  
7 motor vehicle liability policy or bond both as defined in section  
8 thirty-four A of chapter ninety, including any coverage contained  
9 in the plan provided by section one hundred thirteen H of this  
10 chapter, shall be issued or delivered in the commonwealth, or  
11 changed in any coverage, condition of definition in such policy or  
12 bond, except by approval of the commissioner following a recom-  
13 mendation to him by an advisory committee consisting of eight  
14 persons representing insurers, producers, consumers, and  
15 claimants' counsel, appointed by him. There shall be appointed  
16 two members upon nomination by the Automobile Insurers  
17 Bureau, two upon nomination by the Professional Independent  
18 Insurance Agents of Massachusetts, one each upon nomination by  
19 Massachusetts Citizen Action and the Massachusetts Public  
20 Interest Research Group and one each upon nomination by the  
21 Massachusetts Academy of Trial Attorneys and the Massachusetts  
22 Bar Association. No change in any such policy or bond as pro-

23 vided herein shall be approved except after public notice and  
24 hearing in accordance with the procedure established for the pro-  
25 mulgation of regulations pursuant to section two of chapter thirty  
26 A. Nor shall a motor vehicle liability policy, as defined in section  
27 thirty-four A of chapter 90, be issued or delivered in the common-  
28 wealth if it contains any exceptions or exclusions as to specified  
29 accidents or injuries or causes thereof, not unless it contains in  
30 substance the following provisions:—

1 SECTION 2. Said section 113A is hereby further amended by  
2 adding the following paragraph:—

3 In any case in which a person or entity claiming benefits under  
4 a motor vehicle liability policy, as defined in section thirty-four A  
5 of chapter ninety, challenged the wording of said motor vehicle  
6 liability policy as being contrary to the laws of the common-  
7 wealth, or challenges the interpretations urged by the insurer  
8 underwriting said policy as being contrary to the wording of the  
9 policy or to the laws of the commonwealth, and it is finally  
10 adjudged that the wording of said policy is contrary to the laws of  
11 the commonwealth or the interpretation urged by the insurer  
12 underwriting said policy is contrary to the wording of the policy  
13 or laws of the commonwealth, then the insurer underwriting said  
14 policy shall be liable to the person or entity claiming benefits  
15 thereunder for reasonable costs and attorney's fees. Nothing in the  
16 first paragraph of this section shall be construed to prohibit other-  
17 wise appropriate suits for declaratory relief. For the purpose of  
18 this section the term "motor vehicle liability policy" shall include  
19 a motor vehicle liability bond.

1 SECTION 3. Section one of this act shall apply to all proposed  
2 changes in motor vehicle liability bonds or policies submitted on  
3 or after the effective date of this act. Section two of this act shall  
4 apply to all final adjudications made after the effective date of this  
5 act.